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COMMITTEE ON FINANCE
UNITED STATES SENATE

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# EXPLANATION OF REVENUE TITLE ("HIGHWAY REVENUE ACT OF 1987") TO S. 387, A BILL EXTENDING HIGHWAY TRUST FUND AUTHORIZATIONS

As Approved by the
COMMITTEE ON FINANCE

FEBRUARY 3, 1987

Prepared for use of the Committee on Finance

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## INTRODUCTION

This document is an explanation of the committee amendment approved by the Committee on Finance on January 22, 1987, to extend the present-law highway-related excise taxes and the Highway Trust Fund expenditure authority for four years (through September 30, 1992). The committee amendment is to be offered as the revenue title to S. 387, a bill extending authorizations for the Highway Trust Fund, when that bill is considered by the Senate.

This committee explanation is intended to be a part of the official legislative history of the committee amendment.

The first part is a summary of the committee amendment and background. The second part is an explanation of the provisions of the committee amendment. The third part presents the estimated budget effects of the committee amendment and the effects on the revenues to the Highway Trust Fund, as well as the vote of the committee. The fourth part is the statutory language of the committee amendment.

# I. BACKGROUND AND SUMMARY

## A. Background on Legislation

S. 387, as reported by the Senate Committee on the Environment and Public Works, provides a four-year extension of the Highway Trust Fund (HTF) authorizations (fiscal years 1987–1990). The present-law HTF authorizations, as enacted in the Surface Transportation Assistance Act of 1982, generally expired after September 30, 1986. The present-law excise taxes and authority to spend from the Trust Fund are scheduled to expire after September 30, 1988.

During the 99th Congress, the House of Representatives passed a bill, H.R. 3129, which would have provided a five-year extension of the current highway excise taxes (through September 30, 1993) and authority to spend from the trust fund, as well as a five-year reauthorization for Highway Trust Fund expenditure programs (through September 30, 1991, or fiscal years 1987–1991). The Senate amendment to that bill would have provided a four-year extension of the taxes and trust fund authorizations. The conference committee on H.R. 3129 did not reach final agreement on tax or Trust Fund provisions before the 99th Congress adjourned.

## B. Summary of Committee Amendment

### *Present-law highway excise taxes and trust fund*

Excise taxes are imposed on gasoline, diesel and other motor fuels, trucks, truck trailers, heavy tires, and heavy highway vehicles. Revenues from these highway-related excise taxes are deposited in the Highway Trust Fund. Revenues equivalent to one cent per gallon from the taxes on highway motor fuels go into the Mass Transit Account in the Highway Trust Fund. The other highway excise tax revenues go into the Highway Account in the Trust Fund.

The Highway Trust Fund taxes are currently scheduled to expire after September 30, 1988. (See Table in Part II, below.) Also, authority to spend from the Highway Trust Fund expires after September 30, 1988. Deposits of pre-October 1, 1988, excise tax liabilities will continue to go into the Trust Fund through June 30, 1989.

### *Committee amendment*

The committee amendment includes the following provisions:

(1) The present-law Highway Trust Fund excise taxes, and the authority to spend from the Trust Fund, are extended for four years (through September 30, 1992). Revenues from these taxes will also be deposited into the Trust Fund for an additional four years (through June 30, 1993).

(2) The Highway Trust Fund statute is updated to reflect trust fund authorization purposes in the new authorization legislation.

(3) The use tax on heavy highway vehicles is amended to provide that the tax applies to all such vehicles operating in the United States regardless of the country in which the vehicle is registered, effective July 1, 1987. Further, the committee amendment requires the promulgation of necessary regulations within 120 days of enactment.

## II. EXPLANATION OF COMMITTEE AMENDMENT

### A. Extension of Highway Trust Fund Excise Taxes

*Present Law*

***Highway excise taxes***

Excise taxes are imposed on gasoline, diesel and other motor fuels, trucks, truck trailers, heavy tires, and heavy highway vehicles. Revenues from these highway-related excise taxes are deposited in the Highway Trust Fund. The taxes currently are scheduled to expire after September 30, 1988. Payments of pre-October 1, 1988, excise tax liabilities will continue to be deposited into the Trust Fund for an additional nine months (through June 30, 1989).

The table below shows the present-law tax rate schedule for the Highway Trust Fund excise taxes.

PRESENT-LAW HIGHWAY TRUST FUND EXCISE TAXES
(THROUGH SEPTEMBER 30, 1988)

| Tax (and Code section) | Tax rate |
|---|---|
| *Motor fuels:* | |
| Gasoline (sec. 4081) | 9 cents per gallon |
| Special motor fuels (sec. 4041(b)). | 9 cents per gallon |
| Diesel fuel (sec. 4041(a)) | 15 cents per gallon |
| *Trucks and trailers:* | |
| Trucks (over 33,000 lbs.) and trailers (over 26,000 lbs.) (sec. 4051). | 12 percent of retail price |
| *Tires for highway vehicles* (sec. 4071). | 40 lbs. or less—no tax<br>40–70 lbs.—15 cents/lb. over 40 lbs.<br>70–90 lbs.—$4.50, plus 30 cents/lb. over 70 lbs.<br>Over 90 lbs.—$10.50, plus 50 cents/lb. over 90 lbs. |
| *Use tax on heavy highway vehicles* (sec. 4481). | Under 55,000 lbs.—no tax<br>55,000–75,000 lbs.—$100, plus $22/1,000 lbs. over 55,000<br>Over 75,000 lbs.—$550 |

*Application of heavy vehicle use tax to operators originating outside the U.S.*

The highway use tax is imposed on all heavy trucks using the public roads for 5,000 miles or more during any taxable period (July 1 through June 30). Liability for payment of the tax is on the person required to register trucks under applicable State laws. Thus, trucks not required to be registered under State law are not liable for payment of the tax.

Canadian trucks from most provinces are not required to be registered in adjoining States of the United States, pursuant to bilateral agreements between those provinces and the adjoining States. Trucks from those provinces are therefore not subject to the highway use tax. Trucks having a base registration in certain provinces having more limited reciprocity agreements are required to be registered in adjoining States. Treasury Department Regulations provide, however, that trucks having a base registration under the limited reciprocity agreement provided in the International Registration Plan are not subject to the highway use tax.

In the Deficit Reduction Act of 1984, the Secretary of Transportation was directed to study the application of the heavy vehicle use tax to heavy trucks engaged in trans-border trucking operations. That study is to be submitted to Congress by October 1, 1987.

## *Reasons for Change*

*Extension of highway revenue taxes*

S. 387 provides Federal-aid highway program authorizations from the Highway Trust Fund for fiscal years 1987–1990. The Committee on Finance is aware that the provisions governing authorizations from the Trust Fund require reduction in highway spending commitments beginning on October 1, 1986, unless legislation is enacted to provide further funding for the Trust Fund. The committee believes that continued funding for the building and maintenance of our Nation's highway system is an important national objective and that a four-year extension of the present Highway Trust Fund excise taxes is, therefore, appropriate at this time.

*Application of heavy vehicle use tax to operators originating outside the U.S.*

The highway use tax is imposed to ensure that heavy trucks bear their fair share of the burden of maintaining United States highways. The committee believes that every heavy truck that shares in the benefits of the United States highway system should be subject to this tax, regardless of the country in which such truck is registered.

## *Explanation of Provisions*

*Extension of highway excise taxes*

The committee amendment extends the present Highway Trust Fund excise taxes for four additional years, through September 30, 1992. (See current taxes and rates in the table, above.) Revenues from these taxes will continue to be deposited into the Trust Fund

through June 30, 1993 (i.e., for four additional years beyond present law).

***Application of heavy vehicle use tax to operators originating outside the U.S.***

The committee amendment provides that trucks whose base registration is in Canada or Mexico are subject to the highway use tax in the same manner as domestically based trucks, whether or not those trucks are required to be registered in a U.S. State. The Treasury Department is directed to promulgate regulations within 120 days of this provision's enactment providing a system for verifying payment of the use tax at the time these foreign trucks enter the United States. These regulations may deny entry to the United States for vehicles on which the use tax has not been paid.

***Effective Dates***

The highway excise tax extension provisions of the committee amendment apply to taxable transactions occurring after September 30, 1988, and before October 1, 1992. The amendment to the heavy vehicle use tax is effective on July 1, 1987.

**B. Highway Trust Fund Expenditure Authority**

***Background and Present Law***

*Overview*

The Highway Trust Fund was originally established in 1956. The Trust Fund and the related highway excise taxes have been extended four times since 1970: a five-year extension in the Federal Aid-Highway Act of 1970 (from September 30, 1972 through September 30, 1977), a two-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), a five-year extension in the Surface Transportaton Assistance Act of 1978 (through September 30, 1984), and a four-year extension in the Surface Transportation Assistance Act of 1982 (through September 30, 1988, or fiscal years 1985–1988).

The Highway Trust Fund authorizations in the 1982 Act generally were for fiscal years 1983–1986. Thus, the revenues deposited in the Trust Fund lag behind the authorizaton period by two years. This is because of the lead time required between the time a project is authorized or obligated and the time when money is needed to pay for it.

An anti-deficit provision (i.e., the "Byrd Amendment") requires that highway apportionments be reduced when unfunded authorizations exceed estimated Trust Fund receipts (tax revenues and interest earned by the Fund) in the following 24-month period.

***Trust Fund expenditure purposes***

In the 1982 Act, the Highway Trust Fund statute was codified in the Internal Revenue Code (sec. 9503), effective January 1, 1983. The 1982 Act established two Accounts within the Highway Trust Fund: the Highway Account and the Mass Transit Account.

Amounts may be paid from the Highway Trust Fund through September 30, 1988, as provided in appropriation Acts, to meet obligations incurred in carrying out the purposes of the Trust Fund. Obligations may be incurred for the purposes specified in the Highway Revenue Act of 1956, the Surface Transportation Assistance Act of 1982, or any law enacted thereafter, for a general purpose authorized under these Acts as in effect on December 31, 1982. Thus, any new general expenditure purpose from the Trust Fund requires a Code amendment.

*Highway Account expenditures*

The general highway-related programs authorized from the Highway Trust Fund include the following:

—Interstate highway construction and resurfacing and repair
—Federal-aid highways, including primary and secondary systems, and urban systems
—Forest and public lands highways, scenic highways, parkways, Indian roads
—Highway hazard elimination projects
—Bridge replacement and rehabilitation
—Emergency (disaster) relief
—Rail crossings and demonstration projects
—Traffic control and traffic signal demonstration projects
—Intermodal urban demonstration projects
—Carpool and vanpool grants
—Pedestrian walkways on highway rights of ways and bikeways
—Highway-related safety grants
—Motor carrier safety grants
—Highway safety research and development
—National Highway Traffic Safety Administration for a share of traffic safety programs
—Certain highway-related administrative costs

*Mass Transit Account expenditures*

The Mass Transit Account in the Trust Fund is financed from the revenue equivalent of one cent of the tax on highway motor fuels. Amounts in the Mass Transit Account are available for making capital expenditures authorized under section 21(a)(2) of the Urban Mass Transportation Act. An anti-deficit provision is included so that unfunded transit authorizations may not exceed estimated account receipts for the following 12 months (compared to 24 months for the Highway Account).

***Trust Fund Authorizations in S. 387***

S. 387, as reported by the Senate Committee on the Environment and Public Works, provides for a four-year authorization of Highway Trust Fund expenditure programs (from the Highway Account), for fiscal years 1987–1990. (The current trust fund authorization programs generally applied through fiscal year 1986.)

***Reasons for Change***

The Committee on Finance agrees that expenditure authority for the Highway Trust Fund should be extended for four years

(through September 30, 1992) to parallel the four-year Highway Trust Fund authorizations included in S. 387 and the four-year extension of the highway excise taxes in the committee amendment (discussed in II.A., above).

### *Explanation of Provisions*

The committee amendment provides a four-year extension of the authority to make expenditures out of the Highway Trust Fund (through September 30, 1992).

The committee amendment also updates the Trust Fund statute to reflect the trust fund authorization purposes included in S. 387.

### *Effective Dates*

The provision extending the trust fund expenditure authority is effective for the period October 1, 1988, through September 30, 1992. The updating of the Trust Fund statute is effective on the date of enactment.

## III. BUDGET EFFECTS OF COMMITTEE AMENDMENT AND VOTE OF THE COMMITTEE

### A. Budget Effects

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the budget effect of the committee amendment.

The committee amendment with respect to the four-year extension of current highway excise taxes will not affect net fiscal year budget receipts, as the extension of present-law Highway Trust Fund excise taxes is included in the baseline budget assumption for budget estimating purposes by the Congressional Budget Office. The provision with respect to the application of the heavy vehicle use tax in the case of operators originating outside the U.S. is estimated to have a negligible effect on budget receipts.

Under the committee amendment, the Highway Trust Fund is projected (based on CBO's January 1987 forecast assumptions) to receive $59.8 billion in tax revenues for fiscal years 1989 through 1992. In addition, the Trust Fund will earn interest on investments of its cash balance.

### B. Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the vote of the Committee on Finance on the motion to report the committee amendment. The committee amendment was approved by voice vote.

The committee amendment is to be offered as a revenue title to S. 387, a bill extending authorizations for the Highway Trust Fund, when that bill is considered by the Senate.

## IV. STATUTORY LANGUAGE OF COMMITTEE AMENDMENT

AMENDMENT intended to be proposed by Mr. BENTSEN
Viz:

At the end of the bill, insert the following new title:

### TITLE II—HIGHWAY REVENUE ACT OF 1987

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Highway Revenue Act of 1987".

**SEC. 202. 4-YEAR EXTENSION OF HIGHWAY TRUST FUND TAXES AND RELATED EXEMPTIONS.**

(a) EXTENSION OF TAXES.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1992":

(1) Section 4041(a)(3) (relating to special fuels tax).

(2) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(3) Section 4071(d) (relating to tax on tires and tread rubber).

(4) Section 4081(e)(1) (relating to gasoline tax) (as amended by the Tax Reform Tax Act of 1986 and section 521(a)(1)(B) of the Superfund Revenue Act of 1986).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(b) EXTENSION OF EXEMPTIONS, ETC.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "1988" each place it appears and inserting in lieu thereof "1992":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(f)(3) (relating to exemption for farm use).

(3) Section 4041(g) (relating to other exemptions).

(4) Section 4221(a) (relating to certain tax-free sales).

(5) Section 4483(f) (relating to exemption for highway use tax).

(6) Section 6420(h) (relating to gasoline used on farms).

(7) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems) (as in effect before its redesignation by section 1703(c) of the Tax Reform Act of 1986).

(8) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(9) Section 6427(m) (relating to fuels not used for taxable purposes) (as in effect before its redesignation of section 1703(e)(1) of the Tax Reform Act of 1986).

(c) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Paragraph (1) of section 6412(a) of the Internal Revenue Code of 1986 (relating to floor stocks refunds) is amended—

(A) by striking out "1988" each place it appears and inserting in lieu thereof "1992", and

(B) by striking out "1989" each place it appears and inserting in lieu thereof "1993".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Paragraph (2) of section 6156(e) of such Code (relating to installment payments of tax on use of highway motor vehicles) is amended by striking out "1988" and inserting in lieu thereof "1992".

**SEC. 203. 4-YEAR EXTENSION OF HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsections (b), (c), and (e) of section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) are each amended—

(1) by striking out "1988" each place it appears and inserting in lieu thereof "1992", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1993".

(b) EXPENDITURES FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from Highway Trust Fund) is amended by striking out "or" at the end of subparagraph (B) and by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) authorized to be paid out of the Highway Trust Fund under the Federal-Aid Highway Act of 1987, or

"(D) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A), (B), or (C) as in effect on the date of enactment of the Federal-Aid Highway Act of 1987.".

(c) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1992", and

(2) by striking out "1989" each place it appears and inserting in lieu thereof "1993".

**SEC. 204. CERTAIN TRANSFERS FROM HIGHWAY TRUST FUND TO BE MADE PROPORTIONATELY FROM MASS TRANSIT ACCOUNT.**

Subsection (e) of section 9503 of the Internal Revenue Code of 1986 (relating to establishment of Mass Transit Account) is amended by adding at the end thereof the following new paragraph:

(5) PORTION OF CERTAIN TRANSFERS TO BE MADE FROM ACCOUNT.—

"(A) IN GENERAL.—Transfers under paragraphs (2), (3), and (4) of subsection (c) shall be borne by the Highway Account and the Mass Transit Account in proportion to the respective revenues transferred under this section to the Highway Account (after the application of paragraph (2)) and the Mass Transit Account; except that any such trans-

fers of the extent attributable to section 6427(g) shall be borne by the Highway Account.

"(B) HIGHWAY ACCOUNT.—For purposes of subparagraph (A), the term 'Highway Account' means the portion of the Highway Trust Fund which is not the Mass Transit Account.".

**SEC. 205. IMPOSITION OF HIGHWAY USE TAX ON ALL MOTOR VEHICLES OPERATING IN UNITED STATES.**

(a) IN GENERAL.—Subsection (b) of section 4481 of the Internal Revenue Code of 1986 (relating to tax paid by whom) is amended by inserting "or contiguous foreign country" after "State".

(b) REGULATIONS REQUIRED WITHIN 120 DAYS.—The Secretary of the Treasury or the delegate of the Secretary shall within 120 days after the date of the enactment of this section prescribe regulations governing payment of the tax imposed by section 4481 of the Internal Revenue Code of 1986 on any highway motor vehicle operated by a motor carrier domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country. Such regulations shall include a procedure by which the operator of such motor vehicle shall evidence that such operator has paid such tax at the time such motor vehicle enters the United States. In the event of the failure to provide evidence of payment, such regulations may provide for denial of entry of such motor vehicle into the United States.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1987.

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